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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,269	12/30/1999	AYMAN BEDAIR	03384-0364	6151

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EXAMINER

HARPER, KEVIN C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 02/13/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/475,269

Applicant(s)

BEDAIR ET AL.

Examiner

Kevin C. Harper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 34-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 20-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5-6 and 8.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Specification

1. The disclosure is objected to because of the following informalities: The related application information on page 1 of the specification should be updated to include appropriate serial numbers or patent numbers; on page 7, line 26, "FIG. 9" should be --FIG. 8--.

Appropriate correction is required.

Information Disclosure Statement

2. The information disclosure statement filed March 17, 2000, is not located in the application file. Applicant is requested to resubmit this IDS.

Drawings

3. The drawings are objected to because Figure 1, item 100, Figure 5, item 500, Figure 7, one of items 800, 840 and 880, and Figure 9, item 900 require descriptive wording (37 CFR 1.83(a)). Corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 1-15 and 20-33 are objected to because in the claims, "adapting a PBX network to maintain a Quality of Service level in the network" should be --adapting a PBX to maintain a Quality of Service level in a data network-- (see Figures 1-3 and page 4, lines 11-15, 17-21 and 23-32).

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5. Claims 1-15 and 20-33 are objected to because in claims 1, 2 and 20, “network bandwidth” or “bandwidth of the network” should be --transmission bandwidth-- (see page 13, lines 19-20).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-5, 20 and 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Cruickshank (US 6,389,005).

6. Regarding claim 1 and 20, Cruickshank discloses a method of dynamically adapting a PBX to maintain a quality of service level in a data network (Figure 3B) comprising the steps of identifying a parameter associated with a data packet transported across the network (Figure 3B, step 134; col. 2, lines 32-36), measuring the parameter (step 136; col. 2, lines 37-40) and optimizing the transmission bandwidth when the parameter differs from a predetermined value (step 138; col. 2, lines 51-54; note: the transmission bandwidth to the network is reduced to zero in maintaining a quality of service level).

7. Regarding claim 2, Cruickshank discloses an apparatus for dynamically adapting a PBX to maintain a quality of service level in a data network (Figure 3B) comprising a first and second

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PBX interconnected by a LAN (Figure 1, item 40), an inherent register for storing a value associated with a given packet and an inherent comparator for comparing the value with a predetermined value (Figure 3B, steps 134-136; col. 2, lines 32-40) and an optimizing mechanism for adjusting the transmission bandwidth when the parameter differs from a predetermined value (step 138; col. 2, lines 51-54; note: the transmission bandwidth to the network is reduced to zero in maintaining a quality of service level).

8. Regarding claims 4-5 and 22-23, the QoS is determined by a difference of arrival times of packets sent through a network (col. 2, line 35; note: packet delay).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 3, 6-8, 21 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruickshank, as applied to claim 1 or 21 above, in further view of Chang et al. (US 2003/0091028).

9. Regarding claims 3, 6-8, 21 and 24-26, Cruickshank does not disclose determining the QoS based on a packet sequence. Chang disclose that a QoS of voice information using Internet packets is determined by packets arriving out of order (page 12, Table 1, VoIP QoS Parameters). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to determine a QoS value related to packets arriving out-of-order in the invention of Cruickshank in order to choose a better path for voice information due out-of-order packets causing reduced voice quality.

Claims 9-15 and 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruickshank in view of Chang, as applied to claim 3 or 26 above, in further view of Geagan, III et al. (US 6,363,371).

10. Regarding claims 9-10 and 27-28, Cruickshank in view of Chang does not disclose incrementing a packet counter as claimed. Geagan discloses incrementing a counter by one to keep track of the sequence of incoming packets and incrementing a counter by more than one if a packet is lost (abstract; Figure 3; Figure 6, steps 78 and 84-90). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to keep track of a sequence of packets using a counter in the invention of Cruickshank in view of Chang in order to properly convey the real-time information within received packets (Geagan, col. 2, lines 38-42).

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11. Regarding claims 11-15 and 29-33, in Cruickshank the optimization is static (note: the bandwidth goes to a predetermined value of zero) and dynamic (note: a new connection is formed on an inactive channel; col. 2, lines 37-40 and 60-67).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 703-305-0139. The examiner can normally be reached weekdays, except Wednesday, from 9:30 AM to 8:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 703-308-5463. The centralized fax number for the Patent Office is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office for TC 2600 at 703-306-0377.

Kevin C. Harper



February 9, 2004

Seema S. Rao
SEEMA S. RAO 2/9/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600